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1986

# Robert L. Gleave v. The Denver and Rio Grande Western Railroad Company, Utah Railway Company, and The State of Utah, Department of Transportation : Unknown

Utah Supreme Court

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IN THE SUPREME COURT FOR THE STATE OF UTAH

ROBERT L. GLEAVE,

Plaintiff-Appellant,  
and Respondent,

vs.

THE DENVER AND RIO GRANDE  
WESTERN RAILROAD COMPANY, a  
corporation, UTAH RAILWAY  
COMPANY, a corporation,

Defendant-Appellants  
and Respondents,

and

THE STATE OF UTAH,  
DEPARTMENT OF TRANSPORTATION,

Defendant-Respondent.

SECOND MEMORANDUM OF  
NEWLY UNCOVERED AUTHORITY

Case No. 20166

860057-4

Case No. 20300

860058-CA

Consolidated  
Case No. 20300

Denver & Rio Grande has argued that punitive damages can only be allowed for cases of actual malice. Reply Brief of Appellants and Cross-Respondents The Denver & Rio Grande Western R.R. Co. at p. 24 n. 2.

Gleave has replied to this issue in Reply Brief of Respondent and Cross-Appellant (cross-appeal) at pp. 1-4.

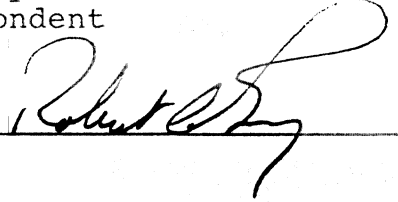
**FILED**  
NOV 18 1985

Clerk, Supreme Court, Utah

Gleave has recently uncovered recent cases from this Court which appear to hold that punitive damages can be allowed for malice-in-law including reckless conduct. Synergetics v. Marathon Ranching Co., 12 Utah. Adv.Rptr. 15, 17; \_\_\_\_\_ P.2d \_\_\_\_\_ (Utah 1985); Aiken, Wright & Miles v. Mountain States Telephone Co., 20 Utah Adv.Rptr. 20, 24; \_\_\_\_\_ P.2d \_\_\_\_\_ (Utah 1985).

RESPECTFULLY SUBMITTED this 15 day of November, 1985.

ROBERT J. DEBRY & ASSOCIATES  
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By: 

CERTIFICATE OF MAILING

I hereby certify that a true and correct copy of the foregoing Second Memorandum of Newly Uncovered Authority, (Gleave vs. Denver & Rio Grande vs. State of Utah), was mailed via U.S. Mail, postage prepaid, this 15 day of November, 1985, to the following:

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